

## CASE SUMMARY

*The People of the State of California v. James Robinson, Jr.*  
No. S040703

Defendant James Robinson, Jr., dropped out of a local college due to financial difficulties and moved in with a childhood friend, Tai Williams. Defendant then began target shooting and purchased a handgun. After he bought the handgun, his behavior changed, and he started to “talk big.” Williams and another friend, Tommy Aldridge, testified that on numerous occasions, defendant said he planned to rob a Subway sandwich shop where he had previously worked, and stated he would shoot at close range anyone inside. After Williams told defendant that he could no longer stay at Williams’ apartment, defendant left with his gun and went to the Subway sandwich shop. He stole \$600 and also shot to death at close range an employee of the shop, James White, and his friend, Brian Berry. Defendant’s fingerprints were discovered on a sandwich bag found at the scene of the killings. The bullets used to kill the victims were matched to defendant’s handgun. A few days after the shootings at the Subway sandwich shop, defendant bragged that he had committed the robbery and killings.

Defendant was charged in Los Angeles County Superior Court with two counts of first degree murder and a “special circumstance” that he committed the murders in the course of a robbery. The charges subjected defendant to the possibility of a sentence of death. His trial by jury was separated into a guilt phase and a penalty phase.

At the guilt phase, the jury convicted defendant of the first degree murders of James White and Brian Berry, and found to be true the special circumstance that defendant committed the murders in the course of a robbery. The jury also convicted him of second degree robbery and found he personally used a firearm in committing the murders and robbery.

The first penalty phase ended in a mistrial because the jury was unable to reach a verdict. The second penalty phase resulted in the jury fixing the penalty as death. The trial judge had the discretion to reduce the sentence to life imprisonment without the possibility of parole, but declined to do so. A judgment of death was imposed.

This appeal is automatic, directly to the California Supreme Court without first being decided by the Court of Appeal. The parties have filed written papers setting forth their legal positions (called “briefs”) and now will make oral presentations to the court (called “oral argument”).

Among the issues raised by defendant on appeal are the following:

1. Did the trial judge commit errors during *voir dire* examination of potential jurors?

*Voir dire* is a French term meaning “to see, to speak.” In this context, *voir dire* refers to the process used to examine prospective jurors in order to expose any biases and eliminate those who could not serve impartially as jurors.

Defendant claims the trial judge took insufficient time and care in the jury selection process, committing multiple errors that resulted in a jury comprised of at least some potentially biased jurors.

The Attorney General argues defendant forfeited many of these claims of error by failing to timely and specifically object in the trial court to the alleged errors and, in any event, the *voir dire* of the jury panel was thorough and adequate to permit the discovery of any bias arising from racial prejudice, pretrial publicity, or any other source.

2. Was the trial judge wrong in excluding evidence that Williams and Aldridge were arrested for illegal gun possession approximately ten days after the Subway sandwich shop robbery and killings, and also in excluding evidence of a person's statement that Williams' distinctive grey car was at the crime scene?

Defendant contends he should have been permitted to present such evidence to support his claim that Williams and Aldridge perpetrated the crimes and to impeach, that is, challenge, their testimony at trial.

With respect to the person's statement that Williams' car was at the crime scene, the Attorney General counters that the record on appeal does not disclose that there was in fact any such eyewitness evidence.

As to the proposed evidence of illegal gun possession by Williams and Aldridge, the Attorney General argues the trial court properly exercised its discretion to exclude such third-party culpability evidence because its relevance was marginal at best in the absence of any direct or circumstantial evidence that would link Williams and Aldridge to the actual perpetration of the crime.

Lastly, the Attorney General asserts that even if error occurred in the exclusion of this proffered evidence, it was harmless in light of the other evidence of defendant's guilt, which the Attorney General characterizes as overwhelming.

3. Did the trial judge err in permitting a medical examiner to testify that, in his opinion, at least one of the victims may have been in a kneeling position when shot?

Defendant contends the evidence was irrelevant, not the proper subject of "expert" testimony, and was more prejudicial than probative.

The Attorney General responds that the claim of error is forfeited because a specific objection to the challenged evidence was not made in the trial court and, in any event, the evidence was admissible for two reasons: the testimony of the medical examiner conveyed an expert opinion beyond the common experience of jurors; and the manner of the killings was relevant to guilt phase issues of premeditation and deliberation and to penalty phase issues of aggravation and propriety of the death penalty.

4. Was the trial judge wrong in allowing, during the penalty phase, the victims' family members to describe the victims' good qualities and the effect that the murders had on surviving family members? (Unless it is unduly inflammatory, such testimony -- known as "victim impact evidence" -- is generally admissible at the penalty phase of trial.)

Defendant contends the victim impact evidence in this case should have been excluded because it was too emotional and inflammatory.

The Attorney General counters defendant is precluded from raising the issue on appeal because there was no timely and specific objection in the trial court to this evidence and, in any event, the victim impact evidence was not unduly inflammatory.